

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EASTMAN KODAK COMPANY,

Plaintiff,

v.

ALTEK CORPORATION,

Defendant.

Civil Action No. 12-cv-0246-DLC

**DECLARATION OF JASON LIN IN SUPPORT OF ALTEK CORPORATION'S
OPPOSITION TO EASTMAN KODAK COMPANY'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Jason Lin, declare:

1. I make this declaration in support of Defendant Altek Corporation's Opposition to Eastman Kodak Company's Motion for Partial Summary Judgment. Except as indicated herein, I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would competently thereto.

2. I am Altek Corporation's General Manager of the MCM Business Unit. I have held this position since 2012. Before that, I was Vice President of the DSC Business of Altek, a position I held since 2005.

3. Prior to joining Altek in 2004, I was employed at IC Media and Philips Semiconductor. While at Phillips Semiconductor, I gained valuable experience in the Original Design Manufacturer industry ("ODM"). Amongst other things, I became knowledgeable of the practices in the consumer products industry. In my experience, "retail price" or projected "retail price" information of manufactured products is of utmost importance to manufactures in the digital camera industry. The "retail price" or projected "retail price" plays a large role in a manufacturer setting its own prices for manufactured products. Manufacturers generally obtain this information and then account for the costs of materials, their competitors pricing for the same or similar cameras, and the history of pricing for the same of similar cameras, to determine what price they can provide to their customers. "Retail price" or projected "retail price" information heavily influences a manufacturers' price for goods because manufactures must account for margins set by their customers, as well as those set by their competitors.

4. Many of Altek's customers provide Altek with their "retail price" or projected "retail price" information simultaneously with their specifications, hardware, and software necessary for Altek to manufacture cameras for that customer. Altek uses such pricing

information to determine what price to charge its customers so that that neither party suffers a loss from the relationship.

5. This was also the case with Altek's manufacture of cameras for Kodak. I began working with Kodak in the latter half of 2004 and became substantially responsible for Altek's relationship with Kodak beginning in the fourth quarter of 2005. As part of my responsibilities, I regularly worked and communicated with Kodak's employees at Kodak's Japan office. These Kodak employees included at least Toyofuku san, Sugano san, Pete Ozug and Steve Parson. During this time, I would regularly collect "retail price" information for the Kodak and relevant similar digital cameras that Altek manufactured. I would collect this information from various publically available e-commerce websites, such as Walmart, Amazon and Best Buy. Kodak was aware of this practice and on occasion would itself provide the "retail price" or projected "retail price" information for its cameras directly to Altek as a starting point in negotiating Altek's price for the cameras it manufactured for Kodak.

6. Attached hereto as **Exhibit 1** is a true and correct copy of a January 10, 2005 communication between Altek and Kodak, as produced by Altek with Bates number ALTK00005634, designated as Confidential pursuant to the Protective Order.

7. Attached hereto as **Exhibit 2** is a true and correct copy of a December 15, 2008 communication between Altek and Kodak Japan, as produced by Altek with Bates number ALTK00005632-33 and designated as Confidential pursuant to the Protective Order.

8. Attached hereto as **Exhibit 3** is a true and correct copy of November 11, 2004 communication between me and other Altek employees, as produced by Altek with Bates number ALTK00005631, designated as Confidential—Attorneys Eyes Only pursuant to the Protective Order.

9. Based on my regular interactions with Kodak Japan, I became aware that Kodak has had knowledge of this industry practice since before 2004. Kodak formalized this practice in 2009 when it began providing Altek with the “retail price” or projected “retail price” information for the cameras Altek manufactured for Kodak. .

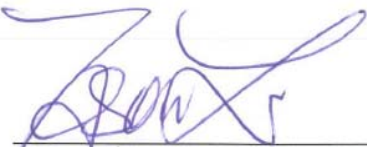
10. Attached hereto as **Exhibit 4** is a true and correct copy of a power point presentation created by Altek in 2005 for the manufacture of Kodak cameras, as produced by Altek with Bates number ALTK00005662-78 and designated Confidential Attorneys’ Eyes Only pursuant to the Protective Order. This document, at Bates number ALTK00005670, includes “retail price” data collected by Altek for various models of Kodak’s cameras

11. From 2004 until the present, Altek has understood that retail price information should be used to calculate royalty payments.

12. Altek continues its practice of collecting/obtaining “retail price” information for the digital cameras it manufactures today.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 15th day of February, 2013.

By: 
JASON LIN